

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**ERIK MARCO GARCIA-BARTOLO,**

**Defendant.**

**CASE NO. 8:09CR58**

# MEMORANDUM AND ORDER

This matter is before the Court on Findings and Recommendation (Filing No. 46) of a Magistrate Judge recommending that I accept the Defendant's plea of guilty. There are no objections to the Findings and Recommendation. Under 28 U.S.C. § 636(b)(1)(C) and NECrimR 11.2(d), the Court has conducted a de novo review of the record.

There is a discrepancy between the advice given at the change of plea hearing and the plea agreement with respect to the supervised release term. The Defendant is advised that the supervised release penalty stated in the plea agreement, as amended, is correct.

IT IS ORDERED:

1. The Findings and Recommendation (Filing No. 46) are adopted;
2. The Defendant is found guilty. The plea is accepted. The Court finds that the plea of guilty is knowing, intelligent, voluntary, and that a factual basis exists for the plea;
3. I defer acceptance of the plea agreement until the time of sentencing under Federal Rule of Criminal Procedure 11(c)(3). Unless otherwise stated at the time of sentencing, the plea agreement will be deemed accepted upon the pronouncement of the judgment and sentence; and
4. This case shall proceed to sentencing.

DATED this 11<sup>th</sup> day of January, 2010.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge